

## CHAPTER 12

### Performance Management

#### 12.1 Concept

- 1 Performance management is the process whereby a supervisor:
  - a. Sets performance requirements for all positions under his/her control.
  - b. Ensures that each employee is aware of the performance requirements for his/her position.
  - c. Periodically counsels each employee on performance and helps set goals for performance improvement and professional development.
  - d. Formally evaluates each employee's performance at least annually.
- 2 Performance management is an ongoing process and an essential part of every supervisor's responsibility. Its aims are fourfold:
  - a. To ensure that each employee is fully informed as to what is expected of him/her on the job.
  - b. To motivate each employee to perform at the highest possible level.
  - c. To assist each employee in setting personal goals for professional development and performance improvement.
  - d. To provide a permanent record of employee performance which may be used:
    - (1) to identify varying levels of performance,
    - (2) to identify training and development needs, and
    - (3) to serve as a basis and documentation for a variety of formal personnel actions, including performance pay increases (PPI) and bonus decisions.
- 3 Performance management is a positive process, which offers benefits to all employees, not only to supervisors and higher levels of management. The annual written evaluation is only one part of the process, and not necessarily the most important part. The formal written evaluation documents the employee's performance during the reporting period. As a permanent record, it is important to both management and the employee, but it cannot

replace ongoing supervisory actions, which maintain and improve employee performance throughout the year.

## 12.2 Authority and Responsibility

- 1 Appointing authorities are responsible for performance management within their agencies to the same extent that they are responsible for other aspects of agency management.
- 2 Authority and responsibility for day-to-day performance management, including formal, written performance evaluation, normally will be delegated in such a manner that each employee will be coached/counseled on a continuing basis and formally evaluated by his/her immediate supervisor. In unusual circumstances, appointing authorities may designate a higher level supervisor to perform this function if circumstances warrant such action, but in such cases, the evaluation shall only be made after consultation with the employee's immediate supervisor concerning the employee's performance of his/her job functions.

## 12.3 Position Descriptions and Performance Requirements

- 1 To be effective and impartial, all supervisory actions designed to maintain, improve and evaluate employee performance must be based on a clear description of the duties to be performed and on readily understandable and consistently applied performance requirements. For this reason, each appointing authority must maintain current position descriptions and performance requirements for all positions under his/her control.
- 2 At every level within the agency, it is the supervisor's responsibility to ensure that subordinate personnel know what is expected of them and to apply objective performance requirements in supervising and evaluating employee performance.

## 12.4 Timing of Formal Performance Evaluations

- 1 While coaching and counseling of employees concerning their job performance goes on throughout the year, formal written performance evaluations must be conducted at the times required by this chapter.
  - a. Newly appointed County employees, other than police officers and firefighters, will be evaluated in writing, not later than three weeks before the end of the sixth month and again not later than three weeks before the end of the twelfth month of the probationary period.

The first review serves not only as a means of assessing the employee's performance but also of formally advising the employee if improvement is needed in order to complete the probationary period successfully. The second review serves as a basis for a decision whether to retain or separate the employee at the end of the probationary period. (Nothing in this section is intended to prevent an appointing authority from

terminating an unsatisfactory probationary employee before the end of the probationary period if circumstances so warrant.)

- b. At the discretion of the Chief of Police, the Sheriff and the Chief of Fire and Rescue, the performance of newly appointed police officers, deputy sheriffs and firefighters may be reviewed formally in writing upon graduation from the Criminal Justice Academy or Fire and Rescue Academy, at which point their probationary periods begin. They also shall be reviewed during their probationary periods as specified above for other newly appointed employees. Because the PPI date is determined by the date of appointment to the respective training academy, the first PPI date will occur before probation is ended. These employees therefore will be reviewed not less than three weeks before the PPI date and need not be reevaluated at the end of the probationary period unless a rating that did not qualify the employee for a pay increase was given at the PPI date or is to be made at the end of probation.
  - c. All non-probationary employees shall be evaluated formally, in writing, at least annually, not later than three weeks before the annual performance pay increase due date. Annual evaluation is required whether or not the employee is otherwise eligible for a performance pay increase.
  - d. The Human Resources Director shall establish guidelines on how agencies will be informed that performance reviews are due on agency employees. The Human Resources Director shall also establish guidelines to ensure that performance reviews are timely accomplished in accordance with these Regulations. These guidelines shall be disseminated to all appointing authorities for promulgation to all supervisors within their respective agencies.
- 2 Special reviews, in addition to those required by the preceding section, will be submitted as follows:
- a. Newly promoted employees serving a probationary period shall be reviewed not later than two weeks before the end of the sixth month following the date of the promotion. The employee will be reviewed again not later than two weeks before the end of the twelfth month of the promotional probationary period.
  - b. Except as otherwise provided herein, an employee being transferred so that there will be a change in the supervisor responsible for review shall be reviewed by the former supervisor if the employee has been under his/her supervision for four months or more of the review period. Similarly, if the supervisor is transferred, resigns or otherwise leaves his/her supervisory position, he/she shall submit a formal review on all employees whom he/she has supervised for four months or more in the review period.

In both of these cases when the new supervisor submits the next review for these employees, the time period covered will begin upon the transfer to ensure that no supervisor reviews the performance of an employee for a time period when that employee was not under his/her supervision and that there is no significant time period during which the employee is not reviewed.

In the instances where a non-public safety employee is rated by more than one supervisor during the rating period, if the current supervisor has supervised the employee for eight months or more, the current supervisor's rating will be used as the final rating. If the current supervisor has supervised the employee for less than eight months, the final rating shall be calculated by weighting the ratings of all supervisors (who have supervised the employee for four months or more) during the rating period based on the number of months covered by their individual reviews.

In the Police Department, Sheriff Department and the Fire and Rescue Department, where internal transfers occur often in the lower ranks, appointing authorities may establish procedures under which police first lieutenants, sheriff sergeants, fire captains and uniformed personnel of lesser ranks who have more than two supervisors in a twelve-month period will be rated jointly by all supervisors who had the individual under their command for two months or longer. In the case of Police, Sheriff or Fire and Rescue personnel in higher grades, where an employee is rated by more than one supervisor during the rating period, the final rating by the current supervisor shall be used for purposes of determining pay increase eligibility. When the current supervisor has supervised for less than three months, the evaluation shall be made after consideration of ratings of prior supervisors.

## 12.5 Negative Determination and Denial of Pay Increase

### -1 Negative Determination Definition

The term "negative determination" refers to a decision by a supervisor, with the concurrence of the reviewing authority, that an employee's performance falls below the level necessary to qualify him/her for an performance pay increase (or a public safety employee who is ineligible for a PPI due his/her step in grade, whose performance is rated below the level that would otherwise be necessary to qualify him/her for a PPI).

### -2 Ten Week Advance Notice

If the supervisor has reason to believe at any time during the evaluation period that an employee's formal evaluation is likely to result in a negative determination as defined above, the supervisor shall consult with the reviewing authority. If the reviewing authority concurs, the supervisor shall so notify the employee in writing, stating the performance deficiencies and listing improvements in performance or changes in behavior required to obtain a performance rating which would qualify the employee for a PPI. Such written

notice shall be given no later than ten weeks before the evaluation PPI due date, unless the finding is caused by events which took place after that date. If the events causing the negative determination occurred less than ten weeks before the due date or in those cases where timely advance notice is not given, the supervisor should follow the procedures in Section 12.5-4. (Nothing in this section precludes informal, oral coaching/counseling with an employee whose performance is borderline but, in the supervisor's judgment, is likely to improve with coaching/counseling.)

In those agencies where the multi rater option is used, the ten-week advance notice requirement applies only to that percentage of the review assigned to the supervisor. It does not include the other raters in the multi rater option.

-3 Evaluation following timely ten weeks advance notice

In the event that a supervisor does give the employee written notice of a possible negative determination at least ten weeks before the PPI due date, the following procedures shall be followed:

- a. If, in the supervisor's, reviewing and/or appointing authority's opinion, the employee's performance has improved sufficiently to warrant a favorable determination at the end of the ten-week period, a favorable determination is made. In the case of an employee otherwise eligible for a PPI, the PPI will be awarded effective the PPI due date. The evaluation and ten-week notice shall be forwarded to the Department of Human Resources.
- b. If, in the supervisor's, reviewing and/or appointing authority's opinion, the employee's performance has not improved sufficiently to warrant a favorable determination at the end of the ten-week period, a negative determination is made. In the case of an employee otherwise eligible for a PPI, no PPI will be awarded. The evaluation showing the negative determination and the ten-week notice are forwarded to the Department of Human Resources.

The employee must be reevaluated in accordance with the provisions of Section 12.5-6 regarding the 120-day Work Improvement Plan.

-4 Failure to warn employee in a timely manner or if negative determination is based on events occurring less than ten weeks before the due date

In the event that a supervisor does not give the employee written notice of a possible negative determination at least ten weeks before the PPI due date, the following procedures shall be followed:

- a. The written ten-week notice should be given as soon as possible stating the performance deficiencies and improvements required.

- b. The appointing authority shall advise the Human Resources Director, in writing, as to why the prescribed notice was not given to the employee ten weeks prior to due date, and, if appropriate, what measures have been taken to prevent recurrence.
- c. After completion of the ten-week period, an evaluation must be given as specified in 12.5-5.

-5 Evaluation following failure to warn employee in a timely manner

The employee's evaluation should be given ten weeks after the written notice of a possible negative determination.

- a. If, in the supervisor's, reviewing and/or appointing authority's opinion, the employee's performance has improved sufficiently to warrant a favorable determination at the end of the ten-week notice period, a favorable determination is made. In the case of an employee otherwise eligible for a PPI, the PPI will be awarded retroactively to the PPI due date. The evaluation and ten-week notice shall be forwarded to the Department of Human Resources.
- b. If, in the supervisor's, reviewing and/or appointing authority's opinion, the employee's performance has not improved sufficiently to warrant a favorable determination at the end of the ten-week period, a negative determination is made. In the case of an employee otherwise eligible for a PPI, the PPI is not awarded at this time. The negative evaluation and ten-week notice are forwarded to the Department of Human Resources.

The employee must be reevaluated in accordance with the provisions of Section 12.5-6.

-6 Unsatisfactory Performance Evaluation and Work Improvement Period

(1) Unsatisfactory Annual Performance Review Rating

An unsatisfactory performance review rating refers to a final rating on an annual review wherein the employee would not qualify for an increase in salary, regardless of whether the employee is otherwise eligible for a salary increase.

(2) Work Improvement Period

When an employee who has completed his/her initial probationary period receives an unsatisfactory annual performance evaluation rating, he or she will be given a 120-calendar day work improvement plan.

- (a) This plan shall be in writing and shall state the performance deficiencies and list the improvements in performance or changes in behavior required to obtain a

performance rating that would qualify the employee for a salary increase (if employee is otherwise eligible).

- (b) During this 120-calendar day work improvement period, the employee shall be given monthly progress reports.
- (c) If at the end of the 120 calendar day work improvement period, the employee's performance rating is fully proficient or better, the employee will receive the appropriate pay increase effective the first full pay period after the date of the 120 calendar day review.
- (d) If at the end of the 120 calendar day work improvement period, the employee's performance rating remains unsatisfactory, the employee will receive no pay increase and will not be eligible for further consideration for a pay increase until his or her next annual performance pay increase date.
- (e) Additionally, if the employee's rating remains unsatisfactory at the end of the 120-calendar day work improvement period, the supervisor, working with the appointing authority, will determine if additional corrective action is appropriate.
- (f) At any time during the review period, the supervisor assesses the employee's performance as unsatisfactory; a work improvement plan may be completed. The length of the work improvement period may vary based on the individual circumstances.
- (g) The appointing authority, at his/her discretion, may execute such a work improvement plan for a probationary employee who is rating as unsatisfactory on his/her 12-month probationary evaluation. In such cases the employee's probationary period shall be extended in accordance with Section 7.6.

#### 12.6 Standard Form for Formal Performance; Training of Evaluators

- 1 All supervisors shall be familiar with this chapter and the instructions, which accompany the evaluation form before conducting any phase of performance management and evaluation.
- 2 The Human Resources Director shall offer periodic training in performance management. Appointing authorities shall ensure that supervisors to whom the responsibility for performance evaluation is assigned are familiar with performance management procedures.

#### 12.7 Review of Completed Performance Evaluation Forms

- 1 Each completed performance evaluation form shall be reviewed by a supervisor designated by the appointing authority. Usually, the immediate supervisor of the evaluator serves as the reviewing authority. In all cases, the reviewing authority shall be at least one

level above the supervisor who prepared and signed the evaluation. In no case shall the evaluator and reviewing authority be the same person.

- 2 Except when the multi rater option is used, the reviewing authority may change the original evaluation. Changes must not obscure the original evaluation and must be initialed by the reviewer. In addition, the reviewer must write comments explaining why any changes were made.

#### 12.8 Discussion with Employee - Public Safety Employees

- 1 After completion and review of the evaluation form, the supervisor shall show it to and discuss it with the employee. This discussion is an important part of the performance management process and is mandatory. It provides an opportunity for the supervisor and employee to clarify their mutual understanding of job tasks, goals and performance standards. It also enables them jointly to set performance goals for the coming evaluation period. Employee strengths, as well as weaknesses should be discussed, and the supervisor should counsel the employee regarding future development. (Nothing herein precludes discussion of the performance with the employee before completing the evaluation form or inviting an employee to make an informal, not-for-the-record self evaluation, but such preliminary discussion does not take the place of the formal discussion mandated herein.)

#### 12.9 Self Assessment/Employee and Supervisor Review Discussion - Excluding Public Safety

- 1 Each employee shall be given the opportunity to complete a self-assessment using the evaluation form for their job class or function. Unless the multi rater option is being used, this self-assessment is used for discussion purposes only and does not count as part of the final numerical rating.
- 2 The employee and supervisor shall meet to discuss the employee's self-assessment as well as the supervisor's preliminary assessment of the employee's performance for the review period. This provides an opportunity for the supervisor and employee to clarify their mutual understanding of job tasks and performance requirements. It also enables them to jointly set performance goals for the coming evaluation period. Employee strengths as well as areas requiring improvement should be discussed. The employee and supervisor should jointly determine the development plan for the upcoming year.
- 3 The supervisor then completes the draft evaluation and submits it to the reviewing authority. If the reviewer concurs with the rating, he or she adds any additional comments and signs the evaluation. If the supervisor and reviewing authority disagree on the rating for any component, changes to the rating will be made in conformance with 12.7-2 above.

- 4 The final evaluation is then presented to the employee for additional discussion, if appropriate, and signature. The employee's signature attests to the fact that the employee has seen and discussed the evaluation and does not affect the employee's right to appeal if he or she disagrees with the evaluation. If the reviewer has made changes, the employee shall be afforded the opportunity to discuss the evaluation with the reviewer.

12.10 *Distribution of and Access to Completed Evaluation Forms*

- 1 Completed performance evaluation forms shall be distributed as follows:
- One copy to the Department of Human Resources for permanent retention in the employee's official personnel file.
  - One copy to the employee.
  - One copy to be filed within the agency at an organizational level designated by the appointing authority. Large agencies may retain an additional copy to permit filing both at a central point and at a remote sub-unit within the agency.
- 2 Performance evaluation forms are confidential records. Access to them shall be restricted to the following:
- a. The employee rated therein.
  - b. The appointing authority and personnel within the agency specifically authorized access to such records by the appointing authority.
  - c. The Human Resources Director, who may make them available to other representatives of management in connection with personnel actions related to the employee.
  - d. The Civil Service Commission in connection with any appeal or grievance where such records are pertinent to the matter before the Commission.
  - e. The Office of the County Attorney in connection with any personnel actions, grievances, appeals, charges of discrimination filed with the U. S. Equal Opportunity Commission, or any other matters related to the employee's employment in which the County Attorney's Office is providing advice, legal counsel or representation.
  - f. The Office of Equity Programs in connection with any personnel actions, grievances, appeals, charges of discrimination filed with the U. S. Equal Opportunity Commission, or any other federal or state agencies, or any other matters referred to it for investigation, recommendation or mediation.

- 3 Except as provided above, in no case shall any evaluator, reviewing authority or other person with access to completed forms show any such form to any person other than the employee evaluated thereon without specific permission from the appointing authority or the Human Resources Director. Appointing authorities are responsible for establishing the necessary security for locally held copies of evaluations.
- 4 No public disclosure of information from such records shall be made except with the approval of the Human Resources Director after a determination that such disclosure is in the public interest.

#### 12.11 Employee Right of Appeal

- 1 An employee who feels that an evaluation is inaccurate or unfair should attempt to resolve the matter during the discussion with the supervisor mandated by Sec. 12.8 and 12.9. If the employee remains unsatisfied, he/she may further appeal under the grievance procedure set forth in Chapter 17 of these regulations.
- 2 If the formal grievance procedure is used, Step 1 will consist of a discussion with the supervisor who made the evaluation. Step 2 will be addressed to the reviewing official, (or at the agency head's discretion another higher level supervisor) unless that official also is the appointing authority, in which case Step 2 and Step 3 will be combined. Step 3 will be addressed to the appointing authority.
- 3 If the grievance is carried to the Civil Service Commission, the decision of that body will be advisory to the County Executive, unless the grievance qualified for a binding decision under the conditions listed in Sec. 17.3-2.
- 4 Additionally, non public safety employees who have completed their initial probationary period and are not satisfied with the final rating on either an annual evaluation or an evaluation following a 120 day work improvement period, may request a hearing before an employee appeals panel in accordance with the procedures established for the panel by the County Executive or his/her designee. Such appeals must be filed in writing within ten business days from the date the employee receives the evaluation signed by the supervisor and reviewing authority. Decision of the appeals panel are binding on the supervisor. Employees not satisfied with the appeals panel decision may further appeal under the grievance procedure set forth in Chapter 17 by filing a formal grievance within 20 workdays of his/her receipt of the appeals panel decision.